

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Minutes

August 08, 2002, 12:00 Noon - 4:00 PM

Coconino County Department of Health

Flagstaff, AZ

CIDVC Members Present

Hon. Karen O'Connor, Chair

Hon. Chris Wotruba

Margaret Bentzen

Hon. Sherry Geisler

Hon. Dana Hendrix

Donna Irwin

Bob James

Hon. Ronald Karp

Patricia Klahr

Dr. Teresa Lanier

Denise Lundin

Hon. Mary Helen Maley

Dr. Anu Partap

John Pombier, Esq.

Members using a Proxy

Sheri Lauritano, Esq.

Martha Fraser Harmon

Hon. Mark Moran

Tracey Wilkinson

Members RSVP (unable to attend)

Hon. George Anagnost

Hallie Bonger-White, Esq.

Robert M. Lehner

Jerry Bernstein, Esq.

Allie Bones

Members not present

Members participating by telephone

None

Guests

Dianne Post, AzCADV

Staff Present

Catherine Drezak

Quorum: Yes

Call Meeting to Order Judge O'Connor

The meeting was called to order at 12:15. All those persons present introduced themselves. Guests attending the meeting were welcomed.

Review of Previous Meeting Minutes Judge O'Connor

Minutes of the June 05, 2002 meeting was reviewed. One clerical revision was proposed: in the education workgroup discussion (page 2), clarify that the attorney representing plaintiffs recommends the OP be delayed making OP ineffectual.

Motion: Approve the June 05, 2002 minutes with clerical correction.

Action: Pass

MEETING BUSINESS AGENDA

A. Forms Change Bob James

At two separate meetings the workgroup decided that they didn't want to make significant changes now and then make further changes later. The decision was made to only make the changes necessary to comply with the statutory changes. There are other considerations worthy of discussion and the workgroup wants to address all of the issues. A series of meetings will be set up to discuss revising forms to meet AOC ITD deadlines. Next scheduled roll out is January so changes need to be approved by October. Several committee members expressed great concern with the possibility of reducing the type and quality of data found on the DV forms, particularly the petition forms. Affidavits/ petition often contains information that doesn't reach law enforcement by any other means, the fear is that this information will be eliminated. Additionally, there should be consideration to adopt Spanish language or bi-lingual forms. Bob James was named as the Chair of the DV Forms Workgroup by Judge O'Connor, CIDVC Chair.

Action Item: It must be noted that a complication exists: any changes made will effect automation technology. Include ITD and other concerned persons in the workgroup meetings.

Action Item: Members of the committee requested that the forms be made available on disk and mailed to the courts.

The documents presented to the committee reflect legislation, which becomes effective on Aug 22. These changes include the following forms:

Petition for Order of Protection: paragraph # 5- remove checkbox requesting service fees to be waived or deferred.

Petition for Injunction Against Harassment: paragraph # 1 - add a checkbox to stating "I have / had a dating relationship with the Defendant."

Injunction Against Harassment: add a new paragraph (#7) stating "The court finds that this injunction arises out of a dating relationship, per A.R.S. §§ 12-1809; 11-445 law enforcement officers must serve this Injunction Against Harassment at no cost to the plaintiff."

Two different formats were agreed upon in an effort to resolve the margin issue. One form will comply with Rule 10(d) and will be used by superior courts. The second form reflects the current format found on the mandatory standard forms and will be used by limited jurisdiction courts.

Since there is not a statute, which defines the term "dating relationship", the committee recommends that the federal Violence Against Women Act 2000 (VAWA) definition be used. Dating relationship is defined by VAWA as:

"the term 'dating violence' means violence committed by a person—
"(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

"(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

"(i) the length of the relationship;

"(ii) the type of relationship; and

"(iii) the frequency of interaction between the persons involved in the relationship.".

In the proposed legislation for the 2003 session, CIDVC will introduce a definition for “dating relationship.” Until a definition is determined, training should include the VAWA dating relationship definition.

Motion: Approve the DV Forms revisions presented.

Action: Pass

B. Court Watch Findings Presentation Dianne Post

The Arizona Coalition Against Domestic Violence (AzCADV) is doing several different projects to assess the courts response to victims of domestic violence. The statistics presented are a draft of the Court Watch survey. One of the target populations is judges who have complaints against them on file at the Coalition. In these instances, several court watch personnel will visit the court at differing times to get an accurate assessment of the judges responses. Maricopa, Mohave, Pima & Pinal have enough data for independent reports however, rural courts lumped together. This will be an annual report and made available on the ACADV web site.

A survey of mothers in custody battles involving domestic violence is being conducted by the ACADV. Interviews to obtain detailed information can last 3 hours long. Reports from Coconino, Maricopa and Pinal counties will be individualized but rural courts will be lumped together in the fall report. This research is replicating a Wesley College study and will include a write up by a local DV lawyer.

Also presented were:

Expose: A battered mothers testimony project on failure of family courts to protect victims and children. It is from studies that have been done in other states.

2000-2001 fatality review report of murder: suicides- 4 of 6 happened when women in process of leaving; a report is due in September. ACADV is planning a press conference to discuss victims, children, advocates interaction. An astounding number of guns are found in the Arizona homes where a murder-suicide was committed; sometimes 18 – 29 guns are found.

Motion: None

Action: Informational

C. Orders Against Unknown Defendants Bob James

Judge Finn asked Bob James to bring up the issue of issuing injunctions against a defendant who is unknown, such as a person who lives next door who is harassing the plaintiff. There is no consensus on this issue. Issues brought up during the discussion included: get a police report to get the name, entering into the database, possible legislation. Is this an issue CIDVC wants to address and recommend a policy or course of action? The committee decided to place it as an agenda item for next meeting.

Action Item: Members should gather information from their local area/courts. An email poll will be sent to the members, please forward it to appropriate people for input.

Motion: None

Action: Place on October agenda

D. Proposed Legislation Catherine Drezak

Currently A.R.S. § 12-1809 allows a judge to issue an Injunction Against Harassment (IAH) to persons in a “dating relationship.” However, the term “dating relationship” is not defined which can lead to inconsistent practices throughout the court system. Additionally, IAH orders that arise out of a “dating relationship” must be served by law enforcement at no charge per A.R.S. § 11-445. Fees may be assessed for all other IAH orders. Orders of Protection issued under A.R.S. § 13-3602 are all served at no charge by law enforcement. This proposed legislation would provide definition for “dating relationship” and remove “dating relationship” from the IAH statute (A.R.S. § 12-1809) and place it in A.R.S. § 13-3601. The advantages are: 1) a single definition of “dating relationship” and 2) place all orders which must be served at no cost by law enforcement under one statute with one set of guidelines.

It will create a separation between statutes involving “family or intimate partner” abuse and abuse between persons with no family or intimate relationship. Consolidating all of the “family or intimate partner” definitions into one statute will provide a distinctive category of cases. It affirms that cases involving intimate partners are considered a separate category from cases strangers or persons with no family or intimate relationship. In others words, the “barking dog” or “noisy neighbor” cases will not be lumped together with the “spouse abuse” or “date assault” cases. Some reprogramming of data collection systems will need to be reprogrammed to separate IAH from “domestic violence” reporting.

Motion: Submit legislative proposal to define “dating relationship”

Action: Approved

OLD BUSINESS

A. Strategic Plan

Training: Education workgroup discussed developing a “roadshow” type training to address: judicial issues, understanding dynamics, Court Watch, and ethics training. One way to develop

ideas is to send an email poll to judges asking for input on what topics they want to receive training. Also include Cojet credit. The Governor's Division for the Prevention of Family Violence (GOPFV) sent judges to training with stipulation that they provide training; we should ask them about developing a Roadshow.

Action Item: The Education Workgroup needs to set up meeting for developing a Roadshow.

B. Victim safety/ batterer accountability

A concrete safety-planning prototype needs to be available to the public. A large number of persons do not contact a victim service agency and need access to safety planning. Catherine should contact AzCADV to request a sample safety-planning guide. The plan should be put on the AOC website.

C. 2003 Meeting Schedule

Members asked about the 2003 schedule of meetings. It is based on an email poll of the CIDVC members. Catherine will email the new 2003 schedule to the members.

NEW BUSINESS

A. Ethics Opinion

New ethics opinions on judicial involvement in multi-disciplinary committees have been crafted around the country that gives hope to the possibility of revising Arizona's ethic opinion. The committee needs to develop reconsideration with a narrow focus. The arguments, pro & con, need to be distilled with a focus on how question is framed. Include a question on court staff participation; specifically ask if are they included. Workgroup, perhaps a spokes person from CIDVC / AOC to represent the courts

Action Item: Dianne Post volunteered will develop the framework for the question and submit it to the committee for review.

Action Item: Catherine will check and see if any changes in membership on the ethics committee have been made since 1997.

Action Item: The committee members should try to find a judge who wants to participate on a workgroup as a focus person.

B. Lunch

The committee needs to decide on the format for lunch. Staff cannot continue to provide arrangements for individual orders, but group arrangements can be accommodated. Staff can arrange a simple cater order and send the members the amount it will cost. Members agreed to bring money (correct change) to the meeting. October staff will order a tray from Miracle Mile for the committee and email a reminder regarding funds to the members.

C. Notices

1. The draft criminal benchbook was disseminated: the committee needs persons to write the missing parts
2. Judge Finn: Form IV needs revision, especially from a law enforcement point of view.
3. Stop grant RFP out: Draft a grant for developing roadshow type training – specific target rural courts.
4. Volunteer: There is a need for a member to review the STOP grant RFP to read and score 70+ proposals.

Call to the Public **Public Attending**

Speaker: NONE

Item: None

Next Meeting 12:00 am - 4:00 PM, October 16, 2002, Phoenix, AOC Room 119 A&B

Adjournment **Judge O'Connor**

The meeting adjourned at 3:20 PM.